



Dakota Westmoreland Corporation - *Beulah Mine*
A Subsidiary of WESTMORELAND COAL COMPANY

May 5, 2021

Dean K. Moos
Director Reclamation Division
North Dakota Public Service Commission
600 E Boulevard Ave, Dept. 408
Bismarck, ND 58505-0480

Dear Mr. Moos:

Attached are the responses to the second completeness review of the application for **Revision 33 (Renewal 7)** to permit KNSB-8603. The permit has been electronically copied (via *Dropbox*) for your review. Please feel free to contact me should you have any questions.

Sincerely,

Jesse Noel, P.E.
Director, Environmental & Regulatory
U.S. Operations
Westmoreland Mining LLC

Cc: Scott Aberle

6 RC-21-95 Filed 05/05/2021 Pages: 5
Company response to completeness review letter
Dakota Westmoreland Corporation
Jesse Noel



May 5, 2021

**Comment/Response to March 17, 2021 PSC Letter
Completeness Review of Renewal 7, Revision 33**

Renewal Application (SFN 10566)

1. The Renewal 7 application incorrectly states that the permit contains 3,878.2 acres instead of 3,871.7 acres. The renewal request narrative incorrectly states that Renewal No. 7, rather than Revision 33, updates all respective sections of the permit. The renewal narrative should state that pending Revision 32 also contains changes to the permit for Renewal No. 7. This would include updating the worst-case bond and final mining and reclamation plans. (GAW/WTG)

Response: Renewal 7 Application has been updated with the correct acreage of 3,871.7. The renewal narrative has been revised as requested.

2. Revise the Revision 7 application form to include Section 29 in the permit. (ZAB)

Response: Renewal 7 Application has revised to include Section 29.

3. Revise the renewal request narrative to include surety bond 106649070 or remove the surety bond numbers and more generally state that sufficient bond to perform the required work for the worst-case reclamation condition will remain in full force and effect during the ensuing five year renewal term, in accordance with the provisions of Section 38-14.1-16. (ZAB)

Response: The renewal narrative has been revised as requested.

Revision Application SFN 10562

4. A revision application form (SFN 10562), revision summary, and a list of changes were not submitted for Revision 33 to KRSB-8603. Please complete forms and submit as soon as possible. (JAR/GAW/WTG)

Response: A revision form,, SFN 10562, a revision summary and list of changes are included in this deficiency submittal.

Section 1.4 – Narrative - Public Notice

5. Please revise the public notice heading to state that the notice is for permit Renewal and Revision applications since Revision 33 has been determined significant. (GAW/JAR/WTG)

Response: The public notice heading has been revised as requested.

6. Please revise the public notice to state Renewal No. 7 will allow mining and reclamation activities to continue during the next five-year permit term ending August 7, 2026. (ZAB)

Response: The statement requested was already stated in the last sentence of the 3rd paragraph of the public notice in the previous submittal.

Mr. Jesse Noel, P.E.

May 5, 2021

Page 2 of 4

7. Please revise the 3rd paragraph of the public notice to state that “Revision 33 updates the permit for the permanent cessation of mining in this permit area, specifically mining of the Iron Pit will cease earlier than previously approved. Other updates to the reclamation plan are also provided in pending Revision 32 to Permit KRSB-8603.” (GAW/DKM)

Response: The 3rd paragraph of the public notice has been revised as requested.

8. Please include Section “29” in the second paragraph of the public notice that describes the permit area. It would also be more precise to state that the permit area is located in “all or portions” of the listed sections. (GAW/WTG)

Response: Section 29 and the words “all or portions” have been included in the second paragraph of the public notice.

9. Section 1.3, Legal Description of Property, indicates that the permit contains 3,871.7 acres rather than 3,878.2 acres as listed in the third paragraph of the public advertisement. Please correct this error. (GAW)

Response: The acreage in the public notice has been revised include the correct acreage.

10. Please replace the 4th paragraph of the public notice with the following paragraph. (JAR/GAW)

A copy of the applications for revision and renewal of a surface coal mining permit is available for public inspection at the offices of the North Dakota Public Service Commission, 600 East Boulevard Ave, Bismarck, ND, 58505-0480 and the Mercer County Auditor, Stanton, ND. A DVD copy of the applications may be requested by contacting the Public Service Commission at (701) 328-2400 or ndpsc@nd.gov or by sending a written request.

Response: The 4th paragraph of the public notice has been revised as requested.

11. Please revise the 4th paragraph of the public notice as follows: “Any persons with an interest which is or may be adversely affected may file written comments, objections, or request an informal conference on the permit renewal and revision applications with the North Dakota Public Service Commission, 600 East Boulevard, Dept. 408, Bismarck, North Dakota, 58505-0480, within 30 days of the last publication of this notice.” (DKM)

Response: The 4th paragraph of the public notice has been revised as requested.

12. Please update the legal description and names of apparent surface and coal owners such that it includes the entire permit area. The public notice is missing surface and coal owners within permitted areas in Sections 14, 15, 16, 17, 18, 20 and 21. (GAW/JAR/WTG)

Response: The legal description on pages 1.4.55 and 1.4.56 has been updated to include all of the permitted surface and coal owners. The new legal descriptions coincide with Revision #33.

13. Please update the surface and subsurface ownership listings within the permit area and adjacent areas on pages 1.4.43 through 1.4.48 as required by NDAC 69-05.2-06-01 and NDCC 38-14.1-14. Any changes to either of these sections must also be reflected on Exhibit 1.4.1 – Surface and Mineral Ownership Map. Some changes were made to the surface and coal ownership, but the changes appear incomplete or incorrect and no ownership map was provided. (PJR/GAW/WTG/ZAB)

Response: Pages 1.4.43 through 1.4.48 represent the Notice of Applications for Revisions #24 (Renewal #5) through Revision #30 (Renewal #6); essentially, the Notice of Applications on these pages are historical information. However, pages 1.4.55 and 1.4.56 contain the ownership listings requested for Renewal #7 (Revision #33; see the response to #12 above). Also, Exhibit 1.4.1 has been updated to reflect ownership under Revision #33.

14. Review and update the addresses of the surface owners of record on pages 1.4.49 - 1.4.50. The addresses are necessary for the Reclamation Division to send the surface owner notices required by NDCC 38-14.4-18(4). (GAW/ZAB)

Response: Rather than edit the surface owners of record, the section was replaced with the list used in the Permit Transfer. There have been numerous edits since the permit transfer, and the edited page was extremely difficult to view. The Permit Transfer Table represents DWC's most current list of owners with addresses.

Section 1.5 – Compliance Information

15. Please review the compliance information in Section 1.5. Retain the May 2020 violation for Westmoreland Absaloka Mining LLC; only the violations more than three years old should be removed. (ZAB)

Response: The Absaloka Violation was withdrawn by the Montana Department of Environmental Quality after issuance; thus, the violation was removed from the AVS after consultation with Montana DEQ and OSM.

Section 3.1 – General Mining Plan

16. Follow-up to item No. 12 of our pre-renewal letter dated November 4, 2020. As required by NDAC 69-05.2-07-03, please update Exhibit 3.1.1 Extended Mine Plan and 5 Year Subareas. The changes should include, but are not be limited to, showing all mining that has been completed through 2020, changes to the mining plan, and any areas that DWC plans to permit in the future. Exhibit 3.1.1 was not updated with Revision 32 as proclaimed. (WTG/GAW)

Response: The response to this comment is addressed in Revision #32 to the permit. Revision #32 updates are now incorporated into the Revision #33 permit, with all edits Revision #32 edits visible.

17. Please review the Revision 32 General Mine Plan narrative, Section 3.1, and the Pit Layout and Facilities Map, Exhibit 3.1.2, to ensure the information accurately describes annual coal removal during the next term of the permit. The Revision 32 changes should be provided with Revision 33 for Renewal No. 7. Please note that Revision 32 indicates coal removal will end in December 2021 and Renewal 7 indicates it will end in March 2022. (GAW/DKM).

Response: The Narrative of Section 3.1 has been changes to indicate coal removal through March of 2022. Also, the Mine Passes from 2017 to 2021 were one year off (but good in the legend); thus, Exhibit 3.1.2 has been updated to show coal removal through Q1 of 2022.

Section 3.2 – Water Management Plan

18. Follow-up to Item No. 17 of our pre-renewal letter dated November 4, 2020. Please revise Section 3.2, Water Management Plan, to include a table that identifies the year that each

Mr. Jesse Noel, P.E.

May 5, 2021

Page 4 of 4

temporary sediment pond will be reclaimed. While design information for each pond generally includes construction dates, it does not include a reclamation date as required by NDAC 69-05.2-09-09(1)(d). Section 3.8 does not provide an adequate reclamation date for each temporary sediment pond. This issue should be addressed with Revision 32 since it was included in our February 13, 2019 midterm review and our October 9, 2020 technical review of Revision 32. (GAW)

Response: The response to this comment is addressed in Revision #32 to the permit. Revision #32 updates are now incorporated into the Revision #33 permit, with all edits Revision #32 edits visible.

19. The Section 3.4 folder in the "1st Submittal_2-16-21" contains a Word document. Please change Word document, "8603r33 Narrative 3.4 021520", to a pdf document. (JAR)

Response: The Narrative has been downloaded into "pdf" format.

Section 3.7 – Revegetation Plan

20. Follow-up to Item No. 31 of our pre-renewal letter dated November 4, 2020. Table 3.7.3, Conservation and Mitigation Shelterbelts, Wetlands and Woodlands, incorrectly indicates that

reclaimed woodland SE17-1 is established. Please provide information showing that this planting is successfully established or edit the table by changing the word "established". DWC's February 16, 2021 response suggests this tree planting is undisturbed woodland acreage that is considered "planned conservation" acreage within the permit which is absolutely erroneous. This issue may be addressed at this time or during our technical review of Revision 33. (GAW)

Response: After further review, DWC has determined that the February 16, 2021, response was incorrect. All reference to reclaimed woodland SE17-1 being established has been removed from Table 3.7.3.

Section 3.9 – Reclamation Cost Estimates and Performance Bond

21. Please include a statement in the first paragraph of the worst case bond narrative on page 3.9.1 that states that the worst case bond was updated with Revision 32 rather than Revision 33. The Revision number at the bottom of page 3.9.1 should be updated accordingly. (GAW)

Response: The first paragraph of the Narrative now incorporates a statement regarding the relationship between revisions #32 and #33. Also, the footers in the Narrative have been updated.

Revision 32 to Permit KRSB-8603 will need to be approved prior to Renewal No. 7 since many of the pre-renewal items were addressed with Revision 32, including the worst case reclamation cost estimate.

DWC must make a complete copy of the Revision 33 application available for the public at the County Auditor's office by the first date of the newspaper advertisement as required by NDAC 69-05.2-10-01(4).